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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,083	12/11/2003	Shigeru Miki	362-86	8465
33769 7590 09/25/2007 BODNER & O'ROURKE, LLP 425 BROADHOLLOW ROAD, SUITE 108 MELVILLE, NY 11747			EXAMINER NEGRON, WANDA M	
			ART UNIT 2622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/733,083	Applicant(s) MIKI, SHIGERU	
	Examiner Wanda M. Negrón	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see pages 8-10, filed 6/25/2007, with respect to the rejection(s) of claim(s) 1-9 under 35 U.S.C §102(b) and 35 U.S.C. §103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Russel (online article *NTFS vs. FAT: Which is right for you?* posted on 2001-10-01 and retrieved on 2007-09-17 from <URL: http://www.microsoft.com/windowsxp/using/setup/expert/russel_october01.msp>). In addition, a rejection under 35 U.S.C. 112, second paragraph is also made. Since this is a new ground of rejection, which was not done because of an amendment, **this action is non-final**.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "large" in claim 1 is a relative term which renders the claim indefinite. The term "large" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 1 recites, "a setter for setting each of said unit areas to a larger size as the capacity detected by said detector is large". It is not clear what Applicant considers to be a "large" recording medium capacity, and, therefore, it is also unclear what the "larger size" of a unit area is intended to be.

Any claim not specifically addressed above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashi et al. (EP Application Publication 0 909 084 A2) further in view of Russel (online article *NTFS vs. FAT: Which is right for you?* posted on 2001-10-01 and retrieved on 2007-09-17 from <URL: http://www.microsoft.com/windowsxp/using/setup/expert/russel_october01.msp>).

Regarding **claim 1**, Takashi et al. disclose an image recording apparatus, i.e. a digital camera with recording capability (see Abstract), that records image data on a recording medium, e.g. a memory card (46), in which a recording area is divided into a plurality of unit areas, i.e. plurality of clusters for an optimal format

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(see Abstract) and available unit areas can be dispersedly distributed, i.e. stored in a "sporadic fashion" (see paragraph [0003]). In addition, Takashi et al. disclose a CPU 28 for formatting the recording medium (see paragraph [0044]) and the use of a FAT file system (see figures 2-4). Takashi et al., however do not explicitly teach that CPU 28 is a detecting means for detecting a capacity of said recording medium, and a setting means for setting said unit areas to a larger size as the capacity detected by said detecting means is large.

Russel, on the other hand, discloses that in a FAT file system, as the recording medium gets larger, "the size of each cluster has to get larger" since there is a fixed number of clusters in each partition (see page 1, second paragraph).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use CPU 28 as a detecting means for detecting a capacity of said recording medium, and as a setting means for setting said unit areas to a larger size as the capacity detected by said detecting means is large in order to allocate memory space for files using a FAT file system which is compatible to a variety of operating systems (see Russel, page1, second paragraph).

Regarding **claim 4**, Takashi et al. do not explicitly disclose that said image data is motion image data formed by a plurality of screens of still images, and that said setting means sets the size of said unit area in consideration of a bit rate of the motion image data. Official notice is taken that digital cameras that record still and motion image data are well known in the art. It would have been inherent to

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set the unit area taking in consideration the bit rate of the motion image data in order to avoid synchronization problems between the bit rate of the imager output and the bit rate of the recording apparatus.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to store motion image data in the device taught by Takashi et al. because the user could record events that require motion-image capture.

Regarding **claim 5**, Takashi et al. disclose a digital camera (see Abstract) provided with the image recording apparatus according to claim 1.

Method **claim 6** is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore, method claim 6 corresponds to apparatus claim 1 and is rejected for the same reasons of anticipation as used above.

Regarding **claim 9**, Takashi et al. disclose a digital camera (see Abstract) provided with the image recording apparatus.

Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashi et al. (EP Application Publication 0 909 084 A2) in view of Russel (online article *NTFS vs. FAT: Which is right for you?* posted on 2001-10-01 and retrieved on 2007-09-17 from <URL: http://www.microsoft.com/windowsxp/using/setup/expert/russel_october01.mspx>) as applied to claims 1, 4-6 and 9 above, and further in view of Satoh et al. (US 5,717,496).

Regarding **claim 2**, as mentioned in the discussion of claim 1 above, Takashi et al. in view of Russel disclose all the limitations of the parent claim. Takashi et al., however, do not explicitly teach a specifying means for specifying a recordable number of frames, i.e. still image files, of said recording medium on the basis of the capacity detected by said detecting means, i.e. identifying the number of frames given the capacity of the memory card and a fixed-size for the still image files, wherein said setting means sets the size of said unit area on the basis of the recordable number of frames specified by said specifying means.

Satoh et al., on the other hand, disclose means for specifying a recordable number of frames of said recording medium, i.e. means for identifying the number of frames given the capacity of the memory card and a fixed-size for the still image files, (see col. 44, lines 15-22), where the number of frames that can be recorded can be retrieved by the user (see col. 44, lines 48-52). In addition, Satoh et al. disclose that the user can select the image file size (see col. 44, lines 31-33), which suggests to one of ordinary skill, the use of a setting means for setting the size of the unit area to conform to the selected file size.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the specifying means taught by Satoh to the image recording apparatus disclosed by Takashi et al. because this configuration allows the user to select the compression mode to be used, i.e. the fixed size of the image files, which determines the image quality of the reproduced image.

Regarding **claim 3**, Satoh et al. disclose that said image data is compressed image data compressed by rendering a predetermined size a target,

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i.e. the image data is compressed according to a user file size selection (see col. 44, lines 31-33), and it would have been inherent to identifying the number of frames given the capacity of the memory card and a fixed-size for the still image files.

Regarding **claims 7 and 8**, Takashi et al., as modified by Satoh et al., disclose a digital camera (see Takashi et al., Abstract) provided with the image recording apparatus.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda M. Negrón whose telephone number is (571) 270-1129. The examiner can normally be reached on Mon-Fri 6:30 am - 4:00 pm alternate Fri off.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wanda M. Negrón/

Examiner, Art Unit 2622
September 17, 2007

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal line extending to the right.

DAVID OMETZ
SUPERVISORY PATENT EXAMINER